

CV18-0638

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

2018 JAN 30 PM 1:27

-----X
IRMA DIRCIOSOSA,

Plaintiff,

DONNELLY, J.

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

-against-

SCANLON, M.J.

UNITED STATES OF AMERICA,

VERIFIED COMPLAINT

Defendant.
-----X

Plaintiff herein, by his attorneys, Ross and Hill, complaining of the above-named defendants, alleges the following upon information and belief.

1. This action is brought pursuant to the Federal Tort Claims Act, 28 USC sec 2671.

2. On August 16, 2016 plaintiff submitted an administrative claim to the Department of Health and Human Services.

3. Six months have elapsed since the claim was submitted and the claim has not been accepted or denied.

4. All conditions precedent to the commencement of this action have been met.

5. Venue is properly within this district under 28 USC 1402(b) as the acts complained of occurred in the Eastern District of New York.

6. Plaintiff is a resident of Brooklyn, New York.

7. On April 13, 2015 plaintiff underwent a total abdominal hysterectomy at Lutheran Medical Center in Brooklyn. The surgeon performing the procedure was Dr. Ernesto Rodriguez- Dumont.

8. At the time of the surgery, Dr. Rodriguez- Dumont was deemed an employee of the United States of America.

9. At the time of the events complained of Dr. Rodriguez- Dumont was acting within the act and scope of his Federal employment.

10. During the course of the surgical procedure, a ureter was transected.

11. As a result of the transection of the ureter, claimant had right hydroureteronephrosis and extravasation of urine into the pelvis.

12. On April 15, 2015 plaintiff had to undergo a surgical procedure at Lutheran Medical Center to repair the ureter and reattach it to the urinary bladder.

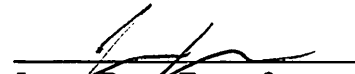
13. It is alleged that Dr. Rodriguez- Dumont was negligent and committed medical malpractice in transecting the ureter during hysterectomy surgery; in failing to plan the surgery adequately; in performing the surgery despite not having the knowledge and expertise to do so; in failing to identify and isolate the ureter during surgery to prevent it from being damaged; in failing to realize he had transected ureter during surgery; in failing to properly inspect surrounding organs and anatomic structures to make certain they were not damaged during surgery; in failing to inform claimant of the risk of damage to other organs or anatomic structures during surgery; failing to provide informed consent.

14. Said negligence was a departure from good and accepted medical practice in the State of New York, and constituted medical malpractice.

15. As a result of the foregoing plaintiff sustained multiple personal injuries including but not limited to transection of ureter; complete occlusion right distal ureter; right hydroureteronephrosis; extravasation of urine into pelvis; surgical injury to bladder; dysuria; surgical scarring and pneumonia.

16. It is also alleged that plaintiff's liable for medical expenses resulting from her injuries as well as lost earnings.

WHEREFORE, plaintiff, demands judgment against the defendant in the amount of Five Million (\$5,000,000.00) Dollars in damages along with interest, costs, and disbursements.



James Ross, Esq. of
ROSS AND HILL, PLLC
Attorneys for Plaintiff
16 Court Street, 35th Floor
Brooklyn, New York 11241
718-855-2324
Jamesross@rossandhill.com